

EXHIBIT 9

Kathrin Bishop

From: Bernick, Mike <mbernick@jw.com>
Sent: Friday, April 18, 2025 1:45 PM
To: Aaron Wagner
Cc: Kathrin Bishop; Anthony Laporte; apierce@hanszenlaporte.com; nmartinez@hanszenlaporte.com; Ben Herbert; Robbie Wright; C. Celeste Creswell; Dori Butler; Huguenard, Harris; Barake, Gabriela; Drab, Michael
Subject: Re: [External] Empower/BFS - Request for Meet & Confer

Aaron,

Thank you for identifying the counterclaims in your email below. We are opposed to your request for leave of court to add those. If there are other forthcoming counterclaims, please let us know.

Mike Bernick | Partner
1401 McKinney Suite 1900 | Houston, TX | 77010
V: (713) 752-4270 | mbernick@jw.com

From: Aaron Wagner <awagner@kcozlaw.com>
Sent: Friday, April 18, 2025 11:51:07 AM
To: Bernick, Mike <mbernick@jw.com>
Cc: Kathrin Bishop <kbishop@kcozlaw.com>; Anthony Laporte <ALaporte@hanszenlaporte.com>; apierce@hanszenlaporte.com <APierce@hanszenlaporte.com>; nmartinez@hanszenlaporte.com <NMartinez@hanszenlaporte.com>; Ben Herbert <bherbert@millerbarondess.com>; Robbie Wright <rwright@kcozlaw.com>; C. Celeste Creswell <ccreswell@kcozlaw.com>; Dori Butler <dbutler@kcozlaw.com>; Huguenard, Harris <hhuguenard@jw.com>; Barake, Gabriela <gbarake@jw.com>; Drab, Michael <mdrab@jw.com>
Subject: RE: [External] Empower/BFS - Request for Meet & Confer

Caution: **External Email.

Hey Mike,

Thanks for your email. I want to address one statement below which is, in my opinion, not accurate and that is that we have not “met our burden to meet and confer on the counterclaims.” We discussed with you twice now or intention to amend our answer and affirmative defenses and add counterclaims. First on our Teams’ call on April 4th, we first informed you that we would be seeking leave to amend and add counterclaims and discussed the basis for those, including the Release provided by Empower. Then again yesterday on our call, I articulated each of the counterclaims, including the two breach of contract claims (for violating the release and non-disparagement provisions of Mr. Ludowings General Waiver and Release), intentional infliction of emotional distress, and wrongful discharge. I specifically stated, I cannot imagine you would agree to our amendment, but please let me know if I’m wrong. You did not disagree with me or seek any further conference on the matter.

If you think further conference might allow you to agree, please let me know and I will block off some time immediately. Otherwise, I believe we have met our burden to confer in good faith and will proceed with filing.

Thank you,
Aaron

Aaron Wagner



811 SW 6th Avenue
Suite 1000
Portland, OR 97204
Direct: (971) 270-1789
Mobile: (360) 481-5107
Main: (404) 400-7300
Email: awagner@kcozlaw.com

Licensed to practice law in Washington, Oregon, Maryland, Texas, Florida, Georgia, and the District of Columbia.

From: Bernick, Mike <mbernick@jw.com>
Sent: Friday, April 18, 2025 9:38 AM
To: Aaron Wagner <awagner@kcozlaw.com>
Cc: Kathrin Bishop <kbishop@kcozlaw.com>; Anthony Laporte <ALaporte@hanszenlaporte.com>; apierce@hanszenlaporte.com; nmartinez@hanszenlaporte.com; Ben Herbert <bherbert@millerbarondess.com>; Robbie Wright <rwright@kcozlaw.com>; C. Celeste Creswell <ccreswell@kcozlaw.com>; Dori Butler <dbutler@kcozlaw.com>; Huguenard, Harris <hhuguenard@jw.com>; Barake, Gabriela <gbarake@jw.com>; Drab, Michael <mdrab@jw.com>
Subject: Re: [External] Empower/BFS - Request for Meet & Confer

Aaron,

Thanks for your email and your call yesterday. Regarding the issues raised in your email, once we hear back from Ms. Baney's counsel, we are happy to coordinate a date/time/place for her deposition.

As I mentioned in our call, Empower will not agree to postpone the expert depositions. Mr. Ludowig's counsel agreed to the date for the Boyle deposition a month ago and issued a deposition notice. And dates for the Lamotta deposition were discussed with Mr. Ludowig's counsel since mid-March, although the final date was only agreed to after you entered the case. Given the situation and the fact that arrangements have already been made for these depositions, Empower will not agree to postpone these depositions.

Regarding the motions deadline, Empower will not agree to extend the motions deadline. The other defendants filed their expert challenges prior to the court's deadline so there's no need to move it. And Empower will not agree to moving the MSJ deadline due to Mr. Ludowig's sudden desire to depose 10 fact witnesses since your firm joined the case 2.5 weeks ago. All of those witnesses were known to Mr. Ludowig since the case has been on file.

Regarding Mr. Ludowig's unidentified forthcoming counterclaims, you have not met your obligation to meet and confer on the motion for leave to add counterclaims. You have not identified what specific counterclaims you will seek to add, nor have you identified any purported good cause for bringing those claims months after the pleadings' deadline. Empower will not agree to move deadlines based on unfiled counterclaims or discovery allegedly related to those unfiled counterclaims.

In light of the foregoing, please let us know if there are issues outside of your April 17th letter that you want to add to the meet and confer agenda.

Have a good weekend.

Mike Bernick | Partner
1401 McKinney Suite 1900 | Houston, TX | 77010
V: (713) 752-4270 | mbernick@jw.com

From: Aaron Wagner <awagner@kcozlaw.com>

Sent: Thursday, April 17, 2025 8:38:14 AM

To: Bernick, Mike <mbernick@jw.com>

Cc: Kathrin Bishop <kbishop@kcozlaw.com>; Anthony Laporte <ALaporte@hanszenlaporte.com>; apierce@hanszenlaporte.com <APierce@hanszenlaporte.com>; nmartinez@hanszenlaporte.com <NMartinez@hanszenlaporte.com>; Ben Herbert <bherbert@millerbarondess.com>; Robbie Wright <rwright@kcozlaw.com>; C. Celeste Creswell <ccreswell@kcozlaw.com>; Dori Butler <dbutler@kcozlaw.com>; Huguenard, Harris <hhuguenard@jw.com>; Barake, Gabriela <gbarake@jw.com>; Drab, Michael <mdrab@jw.com>

Subject: RE: Empower/BFS - Request for Meet & Confer

Caution: **External Email.

Hey Mike,

Let me check the calendar and circle back to you later today. We will also want to add a number of issues to this meet and confer.

Also, we should plan to get on a call to discuss deposition scheduling sooner than later. I notice you unilaterally set Libby Bayne's deposition for example, and I'm sure you guys will be flexible if any party or counsel can't make that date work. We have several other's to discuss, including the settings for your experts next Friday and May 8. We will likely be unprepared to go next Friday, so we may need to set a different time for us to depose Mr. Boyle. Not sure if Anthony will want to proceed on that day or can reschedule given the fact that the current deadline to move to strike experts is tomorrow.

On that note, it seems that we should also need to discuss tomorrow's deadlines in light of our pending motion for extension of all deadlines and trial as well as our forthcoming motion for leave to add counterclaims. Obviously, without any expert depositions having been completed, the deadline to strike them seems implausible. Similarly, with so many pending depositions, the MSJ deadline also seems implausible. Given the decisions regarding scheduling of depositions and completion of discovery were outside of our firm's control, we would ask that we jointly file a motion to extend all of those depositions so that we can properly complete what is remaining. Again, these discussions will also be impacted by our forthcoming counterclaims, which plan to file today (or by tomorrow at the latest).

I'll get back to you asap on the below, but wanted to flag the above issues also.

Thanks,
Aaron

Aaron Wagner



811 SW 6th Avenue
Suite 1000
Portland, OR 97204
Direct: (971) 270-1789
Mobile: (360) 481-5107
Main: (404) 400-7300
Email: awagner@kcozlaw.com

Licensed to practice law in Washington, Oregon, Maryland, Texas, Florida, Georgia, and the District of Columbia.

From: Bernick, Mike <mbernick@jw.com>
Sent: Thursday, April 17, 2025 5:27 AM
To: Aaron Wagner <awagner@kcozlaw.com>
Cc: Kathrin Bishop <kbishop@kcozlaw.com>; Anthony Laporte <ALaporte@hanszenlaporte.com>;
apierce@hanszenlaporte.com; nmartinez@hanszenlaporte.com; Ben Herbert <bherbert@millerbarondess.com>; Robbie Wright <rwright@kcozlaw.com>; C. Celeste Creswell <ccreswell@kcozlaw.com>; Dori Butler <dbutler@kcozlaw.com>; Huguenard, Harris <hhuguenard@jw.com>; Barake, Gabriela <gbarake@jw.com>; Drab, Michael <mdrab@jw.com>
Subject: [External] Empower/BFS - Request for Meet & Confer

Good morning, Aaron,

When are you available for a meet-and-confer on Monday or Tuesday to discuss these questions and the text message protocol? We have not received responses to these questions and we have not received any comments or edits to the text message protocol.

1. What is the potential relevance of the deposition of Ms. Cuccia to the claims and alleged defenses in the lawsuit?
2. What is the potential relevance of the deposition of Ms. Bradley to the claims and alleged defenses in the lawsuit?
3. What is the potential relevance of the deposition of Ms. Walsh to the claims and alleged defenses in the lawsuit?
4. What is the potential relevance of the deposition of Ms. McClure to the claims and alleged defenses in the lawsuit?
5. What is the potential relevance of the deposition of Ms. Samudre to the claims and alleged defenses in the lawsuit?
6. What is the potential relevance of the deposition of Ms. Presha to the claims and alleged defenses in the lawsuit?

Thank you,

Mike Bernick | Partner
1401 McKinney, Suite 1900
Houston, TX 77010
V: (713) 752-4270 | F: (713) 752-4221 | mbernick@jw.com

Jackson Walker LLP